IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 4TH JUNE 2007 / 14TH JYAISHTA 1929

WP(C).No. 15741 of 2004(Y)

OS.27/2000 of PRL.SUB COURT,KOTTAYAM
.....

PETITIONER:

A.N.RAJENDRAN S/O. NARAYANAN NAIR,
RESIDING AT 'SREERANGAM', VELLOOR POST,
PAMPADY, KOTTAYAM 686 501.

BY ADV. SRI.S.V.BALAKRISHNA IYER
SRI.P.B.KRISHNAN

RESPONDENT:

R.S.GIRIJA, 'GEETHANJALI HOUSE',
LAKKATTOOR KARA, KOORAPADA VILLAGE,
(VIA) PAMPADY, KOTTAYAM 686 502.

BY ADV. SRI.R.ANIL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.15741/2004 Y

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE COMMON ORDER OF THE PRL.SUBORDINATE JUDGE'S COURT, KOTTAYAM IN I.A.NO.2785/2003 AND I.A.2788/2003 IN O.S.NO.27 OF 2000 DTD. 21/01/2004.**

EXT.P2: **COPY OF THE ORDER OF THE PRL.SUB JUDGE, KOTTAYAM IN I.A.NO.2786 OF 2003 IN O.S.NO.27 OF 2000 DTD. 21/01/2004.**

/TRUE COPY/

KSS

M.N.KRISHNAN, J.

WP(C)No.15741 OF 2004 Y

Dated this the 4th June, 2007.

JUDGMENT

This writ petition is filed seeking to quash Exts.P1 and P2 and pass orders allowing I.A.Nos:2785, 2786 and 2788/2003 in O.S.27/2000 on the file of the Principal Subordinate Judge's Court, Kottayam. The writ petitioner is the defendant in the case. O.S.27/2000 is a suit for realisation of amount due under a promissory note. It is the case of the defendant that he had discharged the amount and to evidence the discharge of payment the plaintiff in the present suit had written two letters. The plaintiff in the suit had denied sending of such letters. Therefore, the defendant wants the court to compare the handwriting and signature in those two letters with the available admitted handwriting and signatures of the present plaintiff and therefore had filed these applications, I.A.2785, 2786 and 2788/03. I.A.2786/03 is one for sending the signature to forensic laboratory, Thiruvananthapuram for comparison. I.A.2785/03 is to summon documents from the Magistrate Court and I.A.2788/03 is to summon document from the Additional Munsiff Court, Kottayam. The Trial Court had dismissed the application on the ground that this is only to delay the procedure. When there is a

specific contention for the defendant in the case on the plea of discharge and he relies upon two documents alleged to be executed by the plaintiff and when there is a denial of writing of those two letters, it is just and necessary that an opportunity is given to the defendant to establish the plea that the two letters were written by the plaintiff. It is only for that purpose the document is sought to be sent for comparison of signature by an expert. Learned counsel for the writ petitioner has also brought to my notice that a suit has been filed by the defendant for return of documents as the debt is discharged and the present suit is filed by the plaintiff after one or two years thereafter. So, in order to have a proper and effective adjudication of the dispute in between the parties, it is necessary to have a comparison of the handwriting and signature as prayed for. Therefore, the orders under challenge are set aside and all the petitions are allowed. Whether the documents summoned are available or not is a matter which can be stated by the court from where the documents are summoned. Therefore, writ petition is allowed and disposed of as stated above.

M.N.KRISHNAN
Judge

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